

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Modification of Sections 90.20(d)(34) and 90.265)	RM-11635
Of the Commission's Rules to Facilitate the Use of)	DA 11-1717
Vehicular Repeater Units – Petition for Rulemaking)	
Filed by Pyramid Communications, Inc.)	

Comments in Opposition

The Forestry Conservation Communications Association, Inc. (“FCCA”) is the FCC’s certified frequency coordinator for Forestry-Conservation frequencies, designated as “PO” in Section 90.20(c) of the FCC Rules and Regulations.¹ Pyramid Communications, Inc. (“Pyramid”) has requested expanding the use of some of the frequencies for which FCCA has coordination responsibility to allow vehicular repeater systems on the channels. While FCCA has no opposition to the concept of vehicular repeaters, it objects to their use on frequencies intended for shared use with the federal government for wild fire suppression.

The frequencies at issue are those specified in Section 90.20(c) with footnotes 9 and 49. The use of the frequencies is further defined in Section 90.265(c).² These frequencies are intended primarily for assignment to state licensees and then only for “forest firefighting and conservation activities.” The frequencies are primary for the

¹ 47 C.F.R. § 90.20(c)

² 47 C.F.R. § 90.265(c). The specific frequencies are: 170.425 MHz, 170.475 MHz, 170.575 MHz, 171.425 MHz, 171.475 MHz, 171.575 MHz, 172.225 MHz, 172.275 MHz, and 172.375 MHz, although 172.375 is not included in the Pyramid petition.

federal government and assigned only on a secondary basis to non-federal governmental entities engaged in forest firefighting and conservation activities. Use of the frequencies is subject to concurrence from the United States Department of Agriculture. In FCCA's view, the Commission lacks the legal authority to expand the use of these channels absent concurrence from federal users and/or the National Telecommunications and Information Agency.

The locations of forest fires cannot be predicted ahead of time. Once a fire starts, it is critical to be able to move into an area quickly and establish communications. These channels have been dedicated to forest firefighting and conservation activities to assure that they are clear and usable when needed and primarily for coordination of activities with the federal government. They provide a valuable conduit between federal, state, and local resources during wild fires. Allowing use beyond this could pose a serious risk to fire fighting activities due to interference. If the channels were being used for vehicular repeaters in an area in which they were needed for forest firefighting, the vehicular repeater activity could block essential firefighting traffic. Further, efforts to identify and shut down the vehicular repeater operators would take valuable resources away from suppressing the wildfire.

Pyramid states, "current filter technology requires a separation of at least 2-5 MHz from every frequency in the mobile radio."³ FCCA recognizes that there is a tradeoff between filter size and frequency separation, but filter technology is not sufficient justification for allowing use of the federal wildfire fighting channels for other activities. If the equipment operated with a lesser frequency spread, many more channels

³ Pyramid comments at page 2.

would automatically become available, as potentially every channel specified in Section 90.20 could be considered. Pyramid suggests that the size of the cavities in cavity filters would prohibit their use in a mobile environment. That may be true, but perhaps other filter technologies, such as very small surface acoustic wave (“SAW”) filters, could be adapted for vehicular repeater use. FCCA does not profess to be an expert on filter design, but all options should be explored by Pyramid.

Pyramid also suggests that the channels could be limited only to other firefighting entities, such as, entities responsible for fighting in-building fires. Police and other governmental activities would not be permitted. But, even such in-building use can cause interference to communications for wild fire suppression, although FCCA concurs that in-building fire fighting is more compatible than other types of law enforcement and local governmental activities. East of the Mississippi River, many times the same people respond to fight forest fires and in-building fires.

Much more troubling is that opening the channels for any other use other than wildfire suppression is a slippery slope. It is highly likely if that the channels are opened more generally to firefighting use, they will also be used by other governmental entities, even if technically restricted to the fire service by rule. Pyramid’s own comments refer to “firefighters and police officers” on page five of its petition, giving rise to the assumption that the ultimate target market for Pyramid is outside the fire service community. Firefighters may only be a stepping stone to a larger market. It is unlikely that Pyramid would implement a point-of-sale restriction to assure that only firefighting entities have access to the equipment. Once Pyramid’s equipment is allowed to be used on federal wildfire frequencies, it will be impossible to turn off unauthorized use.

This is not the first time that use of these channels has been considered by the Commission. In fact, in 2003, FCCA contacted the Commission about use of the frequencies with limitation 49. Although the request was in connection with operation police surveillance operations under Section 90.20(f)(5), FCCA believes that the Commission's response is pertinent to the instant request by Pyramid. (See, Attachment One.)

The Commission indicated that use of the channels would require approval by FCCA and by the National Telecommunications and Information Agency ("NTIA"). But, even more specifically in the next to the last paragraph, the Commission stated, "we believe that the frequencies listed in Section 90.20(c) that carry limitation 49 are not available routinely for police surveillance operations." FCCA contends that if the channels are not available for surveillance operations, they should also not be available to routine use by vehicular repeaters, which could cause significantly more interference than low power surveillance operations.

For the above reasons, FCCA urges the Commission to dismiss the Pyramid Petition for Rulemaking without further consideration, or as a minimum, eliminate consideration of the federal wildfire fighting channels.

Respectfully submitted,

Lloyd Mitchell
President
FCCA
122 Baltimore Street
Gettysburg, PA 17325
Phone (717) 338-1505

November 3, 2011

Federal Communications Commission
Washington, D.C. 20554

December 4, 2003

DA 03-3546

Joe Friend, National Office Manager
Forestry Conservation Communications Association Hall of the States
444 N. Capitol Street, N.W.
Suite 540
Washington, D.C. 20001

Dear Mr. Friend:

This is in response to your inquiry on behalf of the Forestry Conservation Communications Association (FCCA) concerning Sections 90.2(c) and 90.20(f)(5) of the Commission's Rules, 47 C.F.R. §§ 90.20(f)(5).¹ FCCA contends that there is some confusion in the public safety community when reading Section 90.20(f)(5) in conjunction with the limitations on specific frequencies listed in Section 90.20(c). In general, it argues that there is no "direction" as to which rule section takes precedence. FCCA offers two suggestions to correct the perceived ambiguity in the rules.

Of particular interest to FCCA is how Section 90.20(f)(5) should be applied to frequencies in Section 90.20(c) that carry limitation 49. These frequencies are Federal Government frequencies and are authorized under Footnote US8 of the Table of Frequency Allocations, 47 C.F.R. § 2.106, for use by non-Federal Government entities specifically for the prevention, detection and suppression of forest fires. FCCA contends that the limitations on frequencies listed in Section 90.20(c) such as limitation 49 are critical to proper spectrum management and should be considered when coordinating requests for operation under Section 90.20(f)(5). In this particular instance, FCCA argues that frequencies with limitation 49 are precluded from being used for police surveillance activities under Section 90.20(f)(5).

Section 90.20(c) lists the specific frequencies available to public safety eligibles along with assignment limitations on the frequencies and coordinator requirements. Section 90.20(f)(5) allows a police licensee to use, without specific authorization from the Commission, mobile frequencies listed in Section 90.20(c) on a secondary basis for surveillance, stakeouts, raids and other such activities. Use of frequencies for this purpose not designated by a "PP" in the coordinator column of the table in Section 90.20(c) is conditioned on the approval of the frequency coordinator with corresponding responsibility for each frequency. For example, for frequencies with a "PO" designation in the coordinator column such as those with limitation 40, police licensees must submit

¹ Letter from Joe Friend, National Office Manager, Forestry, Conservation Communications Association to D'wana R. Terry, Chief, Public Safety Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, dated June 13, 2002.

a coordination request to FCCA and have it approved before using the frequencies for surveillance activities, even if the police want to use the frequency on a secondary basis.

The limitations on frequencies listed in Section 90.20(c) are part of the Commission's Rules and are there for spectrum management purposes. They must be considered in the coordination process unless specifically precluded by another Commission rule. That is not the case here. Therefore, we agree with FCCA that coordinators should take into account the assignment limitations specified in Section 90.20(c) when evaluating coordination requests to operate under Section 90.20(f)(5). We disagree, however, that the rules lack direction. As noted above, Section 90.20(f)(5) specifically states that in order for police licensees to use frequencies without a "PP" designation in the coordinator column for surveillance approval from the coordinator associated with the frequency is needed. The purpose of this requirement is to ensure that, among other things, the assignment limitations are considered in evaluating coordination requests. Under the current rules, as a coordinator, FCCA can object to use of "PO" frequencies for police surveillance if it determines an interference problem would exist or it does not believe the proposed operation is in compliance with the Commission's Rules. Police licensees whose coordination requests are not approved, however, can request that the matter be brought to the Commission for a final determination if the licensee believes the coordinator's decision was erroneous and/or inconsistent with the Commission's rules.

Therefore, we decline to propose a rule change at this time. If FCCA continues to believe a problem exists and is not squarely addressed by this action, we believe that it should consider filing a rulemaking petition regarding the matter or raising it the next time the Commission does a general review of Part 90 of the Rules.

In addition to the general question discussed above, FCCA also put forth a specific question concerning using frequencies specified in Section 90.20(c) that carry limitation 49 for police surveillance operations. As noted above, these frequencies are Federal Government frequencies and only available to non-Federal Government entities for the prevention, detection and suppression of forest fires. Therefore, we believe that the frequencies listed in Section 90.20(c) that carry limitation 49 are not available routinely for police surveillance operations under Section 90.20(f)(5). Any such request would have to be coordinated with the National Telecommunications and Information Administration (NTIA).

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division